

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION – DETROIT**

IN THE MATTER OF:

Robert Anthony Katchuba,

Debtor

Bankruptcy Case No. 17-41440
Hon. Maria L. Oxholm
Chapter 7

**TRUSTEE'S MOTION FOR AUTHORITY TO COMPROMISE
EQUITY IN THE ESTATE'S PROPERTY AND COMPENSATE REAL
ESTATE BROKER**

NOW COMES Trustee, Michael A. Stevenson, (“Trustee”), by and through his counsel, Stevenson & Bullock, P.L.C., and hereby states as follows:

1. February 2, 2017, Robert Anthony Katchuba, (the “Debtor”) filed a Petition under Chapter 7 of the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005.

2. Subsequently, Michael A. Stevenson, (the “Trustee”) was appointed the duly qualified and acting Trustee for the Estate of the Debtor.

3. The Debtor filed Schedules disclosing an interest in real property located at 1989 Miles Rd., Lapeer, MI 48446 (the “Real Property”), held jointly with the Debtor’s non-filing spouse, and an interest in a 1994 Mariah boat (the “Boat”) (collectively, the “Assets”).

4. Upon investigation it was determined that the value of the Real Property was \$190,000.00 and there was an outstanding mortgage on the Real Property of approximately \$150,000.00.

5. It was also determined that the retail value of the boat was approximately \$5,022.50.

6. On June 2, 2017, an Order Authorizing Trustee to Employ Real Estate Broker was entered by the Court (DN 54) authorizing the Trustee to employ Marty Osentoski and Osentoski Realty Company (the “Realtor”) to market and sell the Real Property, and the Real Property was immediately listed for sale.

7. The Debtor and his non-filing spouse have indicated through counsel that are opposed to any sale of the Real Property, and it has been determined that they will object to any sale of the Real Property, resulting in significant litigation related fees and costs.

8. In an effort to resolve this matter without litigation, the Trustee and the Debtor have agreed to a compromise resolving the equity in the Assets, whereby, the Debtor shall remit to the Trustee the principal amount of \$8,875.00, \$8,000.00 of which is in satisfaction of the estate’s interest in the Assets, and \$875.00 of which is in satisfaction of the Realtor’s fees and costs expended in evaluating and marketing the real property, and, upon payment in full, the Estate will release any claim it has in the Assets. (See Exhibit 6-1)

9. Pursuant to Drexel v. Loomis, 35 F.2d. 800 (8th Cir. 1929) and In re Carson, 82 B.R. 847 (Bankr. S.D. Ohio 1987), the Trustee believes that this compromise is appropriate and in his business judgment is in the best interest of the estate and its creditors and should be approved by the Court.

10. Acceptance of this compromise will avoid any costs of litigation related to this matter and guarantee a recovery by the estate.

11. The Trustee believes that this Court, in considering the facts before it, and in using its discretion and informed judgment, should approve this compromise because it is fair and equitable.

WHEREFORE, the Trustee, Michael A. Stevenson, prays this Honorable Court grant his request to compromise the equity in the estate whereby, the Debtor shall remit to the Trustee the principal amount of \$8,875.00, \$8,000.00 of which is in satisfaction of the estate's interest in the Assets, and \$875.00 of which is in satisfaction of the Realtor's fees and costs, and, upon payment in full, the Estate will release any claim in the Assets.

Dated: June 8, 2017

Respectfully submitted,
STEVENSON & BULLOCK, P.L.C.

/s/ Sonya N. Goll
Sonya N. Goll (P61136)
Counsel for the Trustee
26100 American Dr., Suite 500
Southfield, MI 48034
(248) 354-7906 ext 2234

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IN THE MATTER OF:

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**ORDER GRANTING TRUSTEE'S MOTION FOR AUTHORITY TO
COMPROMISE EQUITY IN THE ESTATE'S PROPERTY AND
COMPENSATE REAL ESTATE BROKER**

This matter having come before this Honorable Court based upon the Trustee's Motion for Authority to Compromise Equity in the Estate's Property and Compensate Real Estate Broker; no objections having been filed to the Trustee's Motion; or any filed objection having been resolved; notice having been provided properly, pursuant to Rule 2002 and 9019 of the Federal Rules of Bankruptcy Procedures; and the Court being fully advised in the premises;

IT IS HEREBY ORDERED that the Trustee is authorized to settle and compromise the estate's interest in the equity in the estate's property upon the terms provided in the Motion for Authority to Compromise Equity in the Estate's Property and Compensate Real Estate Broker.

EXHIBIT “1”

**UNITED STATES BANKRUPTCY COURT
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IN THE MATTER OF:

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**NOTICE OF TRUSTEE'S MOTION FOR AUTHORITY TO COMPROMISE
EQUITY IN THE ESTATE'S PROPERTY AND COMPENSATE REAL ESTATE
BROKER**

The Trustee, Michael A. Stevenson, has filed papers with the Court to Compromise Equity in the Estate's Property and Compensate Real Estate Broker. The Debtor having an interest in real property located at 1989 Miles Rd., Lapeer, MI 48446 (the "Real Property") held jointly with the Debtor's non-filing spouse, and a 1994 Mariah boat (the "Boat") (collectively, the "Assets"). The Debtor and his non-filing spouse have indicated they are opposed to the sale of the Real Property and the Trustee has determined that they would object to any proposed sale of the Real Property which would result in litigation fees and costs that would significantly reduce the funds available to creditors. In an effort to resolve this matter without litigation, the Trustee and the Debtor have agreed to a compromise resolving the equity in the estate's property, whereby, the Debtor shall remit to the Trustee the principal amount of \$8,875.00, \$8,000.00 of which is in satisfaction of the estate's interest in the Assets, and \$875.00 of which is in satisfaction of the Realtor's fees and costs expended in evaluating and marketing the Real Property, and, upon payment in full, the Estate will release any claim in the Assets.

Your rights may be affected. You should read these papers carefully and discuss them with your attorney, if you have one in this bankruptcy case. (If you do not have an attorney, you may wish to consult one.)

If you do not want the court to Compromise the Equity in the Estate's Property or if you want the court to consider your views on the Trustee's Motion. Within twenty-one (**21**) days, you or your attorney must:

1. File with the court a written response or an answer*, explaining your position at:

United States Bankruptcy Court, 211 W. Fort St., Suite 2100, Detroit, MI
48226.

If you mail your response to the court for filing, you must mail it early enough so the court will **receive** it on or before the date stated above.

You must mail a copy to:

Sonya N. Goll, Stevenson & Bullock, P.L.C., 26100 American Dr., Suite 500,
Southfield, MI 48034, and;

Office of the U.S. Trustee, 211 W. Fort St., Suite 700, Detroit, MI 48226.

2. If a response or answer is timely filed and served, the clerk will schedule a hearing on the motion and you will be served with a notice of the date, time and locations of the hearing.

If you or your attorney do not take these steps, the court may decide that you do not oppose the relief sought in the motion or objection and may enter an order granting relief.

June 8, 2017

Respectfully submitted,
STEVENSON & BULLOCK, P.L.C.

/s/ Sonya N. Goll
Sonya N. Goll (P61136)
Counsel for the Trustee
26100 American Dr., Suite 500
Southfield, MI 48034
(248) 354-7906 ext 2234

EXHIBIT “2”

- Response or answer must comply with F.R. Civ. P. 8(b), (c) and (e).

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PROOF OF SERVICE

Sonya N. Goll of Stevenson & Bullock, P.L.C., hereby certifies that on the 8th day of June, 2017, she mailed a copy of **Trustee's Motion for Authority to Compromise Equity in the Estate's Property and Compensate Real Estate Broker, Proposed Order, Notice of Trustee's Motion, Exhibit 6-1** and this **Proof of Service** by placing same in an envelope with sufficient postage thereon, and depositing same in a United States mail receptacle in the City of Southfield, State of Michigan to:

Office of the US Trustee 211 W. Fort S., Ste. 700 Detroit, MI 48226	Robert Anthony Katchuba 2188 Clark Ct Leonard, MI 48367
Randall L. Shepard, at rshepard@ameritech.net	Michael A. Stevenson, at mas@sbplclaw.com

In addition, she did serve a copy of the **Notice of Trustee's Motion for Authority to Compromise Equity in the Estate's Property and Compensate Real Estate Broker** on each and every party listed on the Debtor's matrix obtained from CM/ECF on the 8th day of June, 2017.

/s/ Sonya N. Goll

Sonya N. Goll (P61136)
Counsel for the Trustee
26100 American Dr., Suite 500
Southfield, MI 48034
(248) 354-7906 ext 2234

EXHIBIT “4”

EXHIBIT “6”

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MICHIGAN
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STIPULATION FOR ORDER FOR TURNOVER OF ESTATE PROPERTY

The Debtor, Robert Anthony Katchuba, by his counsel, and the Chapter 7 Trustee, Michael A. Stevenson, by his counsel, hereby stipulate to the entry of the attached Order for Turnover of Estate Property.

Approved as to form and content:

STEVENSON & BULLOCK, P.L.C.

Colbert, Shepard & Sadowski

/s/ Sonya N. Goll
Sonya N. Goll (P61136)
ATTORNEY FOR TRUSTEE
26100 AMERICAN DR., STE. 500
SOUTHFIELD, MI 48034
(248) 354-7906
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/s/ Randall L. Shepard
Randall L. Shepard (P35096)
ATTORNEY FOR DEBTOR
431 SIXTH ST.
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**UNITED STATES BANKRUPTCY COURT
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/

ORDER FOR TURNOVER OF ESTATE PROPERTY

This matter having come before the Court upon stipulation of the parties hereto, said stipulation being incorporated in the within order, the parties having represented to the Court that they are in agreement; and the Court being fully advised in the premises;

IT IS HEREBY ORDERED that Debtor, Robert Anthony Katchuba, shall pay the Trustee the principal amount of \$8,875.00 in satisfaction of the Estate's interest in the real property located at 1989 Miles Rd., Lapeer, MI 48446 (the "Real Property") and the 1994 Mariah boat with hull identification No. MAB07088F494 (the "Boat") (collectively, the "Assets"). Of the principal amount paid by the Debtor to the Trustee, \$875.00 shall be set aside to be paid to the Trustee's Realtor, Martin Osentoski, and Osentoski Realty upon proper application and order from the Court.

IT IS FURTHER ORDERED that payment on the above-referenced obligation shall be made in a lump sum payment of \$5,875.00 on or before July 1, 2017, and then monthly installments of \$500.00 per month for six months by cashier's check or money order payable to Michael A. Stevenson, Chapter 7 Trustee for the Estate of Robert Anthony Katchuba, on or before August 1, 2017, and on the 1st of each month thereafter until paid in full. Payments shall be sent to ATTN: Sonya N. Goll, Counsel for Chapter 7 Trustee, 26100 American Dr., Suite 500, Southfield, MI 48034, or at such other place as the Trustee may from time to time direct by written notice. **Cash and personal checks will not be accepted.**

IT IS FURTHER ORDERED that if the Debtor defaults when the payments are due, upon written notice to Debtor of default, sent care of the Debtor's attorney of record in the underlying bankruptcy case, the Debtor shall be responsible for attorney's fees and all other costs associated with the collection of these funds, and if the amount in default is not cured within ten (10) days of mailing of the Notice of Default, interest shall accrue at five percent (5%) per annum (compounded daily). The Debtor's current attorney of record is Randall L. Shepard and the Debtor shall notify the Trustee and his then current counsel in writing of any change of counsel. Furthermore, a Notice of Appearance shall be

filed with the United States Bankruptcy Court by any substitute counsel to reflect the same.

IT IS FURTHER ORDERED AND AGREED that the Trustee shall be entitled to administer the proceeds for the benefit of creditors.

IT IS FURTHER ORDERED AND AGREED that the resolution of the compromise for turnover of estate property is subject to the entry of an order granting a motion to compromise.

IT IS FURTHER ORDERED that until the Settlement Amount is paid in full, the Assets shall remain property of the Estate. If the Debtor defaults, the Trustee may immediately re-list the Real Property for sale, and the Debtor shall turnover a key to the Real Property to be placed in a lock box to be placed on the Real Property for showings to prospective buyers.

IT IS FURTHER ORDERED that the Debtor shall maintain homeowner's insurance on the Real Property and shall immediately add the Trustee, Michael A. Stevenson (the "Trustee"), as an additional loss payee to the homeowner's insurance policy, and, upon issuance of the new homeowner's insurance policy, immediately provide a copy of the amended declaration page for the homeowner's insurance policy adding the Trustee as an additional loss payee to counsel for the Trustee, Sonya N. Goll.

IT IS FURTHER ORDERED that the Debtor shall maintain the property taxes on the Real Property and pay any property taxes when due.

IT IS FURTHER ORDERED that the Debtor shall maintain the water bill for the Real Property, and be responsible for all water bills incurred during the occupancy of the Real Property by the Debtor or any and all current or future occupants, through the date of any closing on the sale of the Real Property.

IT IS FURTHER ORDERED that if the Debtor defaults, the Trustee may also immediately take possession of the Boat to liquidate the Boat, and the Debtor shall turnover any keys to the Boat.

IT IS FURTHER ORDERED that this settlement must be compromised on proper application and notice. Such application and notice shall be filed upon entry of this Stipulation.

IT IS FURTHER ORDERED that, upon entry of an Order approving the compromise described herein, this Order shall be incorporated into the aforementioned Order approving the compromise and shall have the same effect as a Judgment entered under Rule 7054 of the Federal Rules of Bankruptcy Procedure and all post-judgment remedies available at law shall be available to the Trustee or Trustee's assigns if the Debtor defaults under the terms of this Order.